

Dear Reviewer:

We'd like to invite you to participate in an external peer review of scientific information to inform our response to a petition to include the killer whale (*Orcinus orca*) known as Lolita in the Endangered Species Act (ESA) listing of the Southern Resident killer whale distinct populations segment (DPS). On January 25, 2013, we received a petition submitted by the People for the Ethical Treatment of Animals Foundation on behalf of the Animal Legal Defense Fund, Orca Network, Howard Garrett, Shelby Proie, Karen Munro, and Patricia Sykes to include Lolita in the ESA listing of the Southern Resident killer whale DPS. Lolita is a female killer whale captured from the Southern Resident population in 1970, who currently resides at the Miami Seaquarium in Miami, Florida. In January 2014, NMFS published a proposed rule to include Lolita in the ESA listed Southern Resident killer whale DPS. The public comments in response to the proposed rule are available for review at:

<http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0056>.

In response to a separate 2012 petition submitted by the Pacific Legal Foundation on behalf of the Center for Environmental Science Accuracy and Reliability, Empresas DelBosque, and Coburn Ranch to delist the endangered Southern Resident killer whale DPS under the ESA, we conducted a status review update, which was completed in July 2013 (NWFSC 2013). The updated status review reaffirmed the DPS determination for Southern Resident killer whales and we found that delisting was not warranted. Additional information on these two petitions is available on our web page at:

[http://www.westcoast.fisheries.noaa.gov/protected\\_species/marine\\_mammals/killer\\_whale/esa\\_status.html](http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/killer_whale/esa_status.html). The updated status review (NWFSC 2013) included information on Lolita's genetic heritage and acoustics. Specifically,

“As of December 31, 2012, the SRKW population consisted of 84 individuals divided into three pods (26 in J, 19 in K, and 39 in L) (Center for Whale Research and NWFSC unpublished data). An additional captive animal originating from the SRKW population and with a genotype consistent with a southern resident origin (Hoelzel *et al.* 2007; Hoelzel pers. com.), “Lolita”, has resided at the Miami Seaquarium since her capture in August of 1970 (Hoyt 1981). Lolita's original pod is not known with certainty, but her acoustic calls are typical of L pod (Ford 1987; Candice Emmons, personal communication).”

We are requesting your review of this specific paragraph and the papers cited as they pertain to Lolita's heritage and our conclusion that Lolita originated from the Southern Resident killer whale population.

General Directives:

1. Please provide comments on the scientific information on Lolita's genetics and acoustics contained within the paragraph above.

2. If you believe that justification is lacking for our conclusion that Lolita originated from the Southern Resident killer whale population or specific information was applied incorrectly in reaching this conclusion, please specify.

#### Requirements for the Peer Review

1. The President's Office of Management and Budget (OMB) published a Peer Review Bulletin (December 2004) that requires online posting of this peer review as it has been determined to be "influential." To ensure that we have a transparent process for public disclosure, names and affiliations of each peer reviewer, as well as the reviewer's comments, are posted online. We are required to identify peer reviewers by name and affiliation, but NMFS has the ability to post a compilation of reviewer comments. Previously submitted Peer Reviews and the Peer Review Plan for this action are available at: [http://www.cio.noaa.gov/Policy\\_Programs/prplans/PRsummaries.html](http://www.cio.noaa.gov/Policy_Programs/prplans/PRsummaries.html)
2. The Peer Review Bulletin further requires that non-Federal peer reviewers complete a "Confidential Conflict of Interest Disclosure" form – I attached the form and request that it be returned with your review. Please note that you are required to submit a CV with the signed form.
3. Please note, if NMFS receives a FOIA request, anonymity of peer reviewers or comments cannot be guaranteed.

#### Logistics

1. In addition to this letter, I have sent you an email with a copy of this letter, a link to the updated status review, and the conflict of interest form. Please feel free to provide your comments in any form that is convenient (via mail or email to [Lynne.Barre@noaa.gov](mailto:Lynne.Barre@noaa.gov)).
2. Please make sure that you return a signed conflict of interest form with your peer review and attach a CV.
3. Please submit your comments by May 30<sup>th</sup> or let me know if you are unable to participate in the peer review.

We sincerely appreciate your time and effort to respond to this request. If you have any questions regarding this request, please contact me at [Lynne.Barre@noaa.gov](mailto:Lynne.Barre@noaa.gov), or (206) 526-4745.

Sincerely,

Lynne Barre  
Seattle Branch Chief  
Protected Resources Division